

AMENDED IN SENATE AUGUST 18, 2015
AMENDED IN ASSEMBLY APRIL 30, 2015
AMENDED IN ASSEMBLY MARCH 24, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Roger Hernández

February 26, 2015

An act to add Section 764 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Roger Hernández. Electrical and gas corporations: security of plant and facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. If the commission finds after a hearing that the rules, practices, equipment, appliances, facilities, or service of any public utility, or of the methods of manufacture, distribution, transmission, storage, or supply employed by the public utility, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Public Utilities Act requires that the commission determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed. The Public Utilities Act requires the commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility and, on proper demand and tender of rates, require the public utility to furnish the commodity or render the service within the time

and upon the conditions provided in the rules adopted by the commission.

~~This bill would, to the extent feasible, require an electrical corporation or gas corporation to utilize direct employees, as defined, for any work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, unless the utility files a Tier 3 advice letter with the commission that demonstrates a request to employ persons that are not direct employees with the commission an application in the utility's general rate case. The bill would require that the request be a separate stand-alone section that is not embedded in the general requested staffing change proposals. The bill would require the utility to demonstrate that the work can be performed safely and securely, and without jeopardizing the security of its nuclear, electrical, and gas infrastructure, by persons that are not direct employees. The bill would require the commission to open a proceeding, or expand the scope of an existing proceeding, to evaluate the advice letter and to hold not less than one duly noticed public hearing for the proceeding. evaluate the utility's proposal to utilize persons that are not direct employees. The bill would require the commission to issue a written decision, as part of the general rate case proceeding, determining whether the electrical corporation or gas corporation may utilize persons that are not direct employees for the described work.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 764 is added to the Public Utilities Code,
2 to read:

3 764. (a) The Legislature finds and declares all of the following:

4 (1) Protecting the security of nuclear, electrical, and natural gas
5 utility systems is a paramount state interest.

6 (2) Protecting the privacy of ratepayers' personal information,
7 including usage information, is a paramount state interest.

8 (3) Recent intrusions into major corporate computer systems,
9 including Sony and Anthem Blue Cross, and the theft of
10 information from those systems have demonstrated the
11 vulnerability of those systems.

12 (4) The computer systems of California's electrical corporations
13 and gas corporations have information about the design,
14 engineering, and operation of the nuclear, electrical, and natural
15 gas utility infrastructure, as well as personal information about
16 California ratepayers. This information could be used to
17 compromise the security of California's utility infrastructure and
18 the privacy of California's ratepayers.

19 (5) Widespread deployment of smart meters, smart grid
20 equipment, and microgrids increases the importance of protecting
21 the computer systems of electrical corporations and gas
22 corporations.

23 (6) The part of any computer system that is most vulnerable to
24 being compromised is the personnel who operate that system.

25 (7) Electrical corporations and gas corporations should make
26 every reasonable effort to protect their computer systems from
27 unauthorized intrusions.

28 (8) To protect the security of electrical and natural gas utility
29 computer systems, including nuclear infrastructure, the information
30 technology personnel who operate those systems should be direct
31 employees of the electrical corporation or gas corporation.

32 (9) To protect the security of nuclear, electrical, and gas utility
33 infrastructure, the design, engineering, and operation of that
34 infrastructure should, to the extent feasible, be performed by direct
35 employees of the electrical corporation or gas corporation.

36 (b) For purposes of this section, "direct employees" for
37 construction or maintenance work include the employees of a
38 contractor or subcontractor licensed in California and working

1 under the direct supervision of the electrical corporation or gas
2 corporation.

3 ~~(c) To the extent feasible, an~~ An electrical corporation or gas
4 corporation shall utilize direct employees for any work associated
5 with the design, engineering, and operation of its nuclear, electrical,
6 and gas infrastructure, including all computer and information
7 technology systems, unless the utility complies with the
8 requirements of this section and obtains the approval of the
9 commission pursuant to this section.

10 (d) Before utilizing persons that are not direct employees for
11 work associated with the design, engineering, and operation of its
12 nuclear, electrical, and gas infrastructure, including all computer
13 and information technology systems, an electrical corporation or
14 gas corporation shall file a ~~Tier 3 advice letter with the commission~~
15 ~~that demonstrates a request to employ persons that are not direct~~
16 ~~employees with the commission, as part of the utility's general~~
17 ~~rate case application. The request shall be a separate stand-alone~~
18 ~~section that is not embedded in the general requested staffing~~
19 ~~change proposals. The utility shall demonstrate that the work can~~
20 ~~be performed safely and securely, and without jeopardizing the~~
21 ~~security of its nuclear, electrical, and gas infrastructure.~~

22 (e) The commission shall ~~open a proceeding, or expand the~~
23 ~~scope of an existing proceeding, to evaluate the advice letter. The~~
24 ~~commission shall hold not less than one duly noticed public hearing~~
25 ~~for the proceeding. The~~ evaluate the utility's proposal to utilize
26 persons that are not direct employees for work associated with the
27 design, engineering, and operation of its nuclear, electrical, and
28 gas infrastructure, including all computer and information
29 technology systems.

30 (f) The commission shall issue a written decision *as part of the*
31 *general rate case proceeding* determining whether the electrical
32 corporation or gas corporation may utilize persons that are not
33 direct employees for the described work.

34 (f)

35 (g) A person or corporation owning or operating a qualifying
36 facility pursuant to federal law or a facility that is an exempt
37 wholesale generator is not an electrical corporation due to the
38 ownership or operation of that facility. This subdivision is
39 declaratory of existing law.

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

O